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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/829,371	04/22/2004	Glenn Robinson	31229-202841	7093
26694	7590	10/01/2008	EXAMINER	
VENABLE LLP P.O. BOX 34385 WASHINGTON, DC 20043-9998			RAO, ANAND SHASHIKANT	
			ART UNIT	PAPER NUMBER
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			10/01/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/829,371

Applicant(s)

ROBINSON ET AL.

Examiner

Andy S. Rao

Art Unit

2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2008.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-20 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Response to Request for Reconsideration

1. Applicant's arguments filed with respect to claims 1-7 and 10-20 as filed on 7/2/08 have been fully considered but they are not persuasive.
2. Claim 19 remains rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement, as was set forth in the Office Action of 4/4/08.
3. Claims 19 remains rejected under 35 U.S.C. 101 because they are directed towards nonstatutory subject matter, as was set forth in the Office Action of 4/4/08.
4. Claims 1-7, 10-20 remain rejected under 35 U.S.C. 102(b) as being anticipated by Kirsten (US Patent: 5,724,475), as was set forth in the Office Action of 4/4/08.
5. The Applicant presents three arguments contending the Examiner's pending rejections, one argument directed towards the rejection of claim 19 under 35 U.S.C. 112, first paragraph, one argument directed towards the rejection of claim 19 under 35 U.S.C. 101 as it is directed towards nonstatutory subject matter, and one argument directed towards the rejection of claims 1-7, 10-20 under 35 U.S.C. 102(b) as being anticipated by Kirsten (US Patent: 5,724,475), said rejections being set forth in the Office Action of 4/4/08. However, after careful consideration of the arguments presented and further scrutiny applied reference, the Examiner must respectfully disagree and maintain applicability of the Kirsten reference as the grounds of rejection against newly examined claims 8-9.

After summarizing formal matters (Request for Reconsideration of 7/2/08: page 6, lines 6-17; page 7, lines 8-13), the Applicant's argue that the term "computer program product" and it's embodiments are concepts well known to those having ordinary skill in the art and may be

embodied in any extant of future computer readable medium used to hold computer readable instructions as the basis for meeting the written description requirement (Request for Reconsideration of 7/2/08: page 6, lines 18-25; page 7, lines 1-2). The Examiner flatly disagrees. In particular, the Examiner notes that the lack of sufficient disclosure as to the nature of the computer program product goes the point of not being described in such a way *as would indicate possession of that invention as of the original filing date of the instant invention* and contrary to the Applicant's assertion would not apply to any future computer readable medium interpretation, but only to those specifically listed in the specification, *In re Wilder*, 736 F.2d 1516, 222 USPQ 369 (Fed. Cir. 1984). Applicant's discussion concerning the statutory nature of the limitation is misplaced (Request for Reconsideration of 7/2/08: page 7, lines 3-7), as the this rejection is not questioning this feature, *In re Beaugregard*, 53 F.3d 1583 (Fed. Cir. 1995). This 35 U.S.C. 112, first paragraph, rejection is made final, and must be addressed in any forthcoming communication from the Applicant.

Secondly, the Applicant argues that the rejection of claim 19 under 35 U.S.C. 101 should be withdrawn because the applicant believes that the limitation of a "...computer program product..." can be considered "...functionally descriptive material consisting of data structures and computer programs which impart functionality when employed by a computer component..." and thus belong to a statutory class of inventions (Request for Reconsideration of 7/2/08: page 7, lines 14-26). The Examiner respectfully disagrees. The claim does not sufficiently establish *any computer component that manipulates the computer program product with any kind of functionality*, but just the computer program product, alone. This is not sufficient to meet the requirement under MPEP § 2106.01. Applicant's discussion concerning the statutory nature of

the limitation is misplaced (Request for Reconsideration of 7/2/08: page 8, lines 1-7), as the this rejection is not questioning this feature, *In re Beauregard*, 53 F.3d 1583 (Fed. Cir. 1995). This 35 U.S.C. 101 rejection is made final, and must be addressed by sufficient amendments to the claim in any forthcoming communication from the Applicant.

Lastly, after providing a brief explanation of the instant invention (Request for Reconsideration of 7/2/08: page 8, lines 10-21), the Applicant argues that Kirsten fails to disclose "...storing said audio/video data at a second, lower, spatial and/or temporal resolution for at least a second, later, time period..." because Kirsten discloses the "overwriting of older data..." (Request for Reconsideration of 7/2/08: page 8, lines 22-27; page 9, lines 1-15). The Examiner respectfully disagrees. It is noted that older data can be placed on hold so as to not be overwritten by newer data (Kirsten: column 15, lines 1-12), and thus multiple versions of the same data can be stored for later review (Kirsten: column 15, lines 30-40). Accordingly, the Examiner maintains that the limitation is met. This 35 U.S.C. 102 rejection concerning claims 1-7, and 10-20 is made final, and thus arguments directed as to the merits of the instant invention will only be addressed if they are concentrated upon newly rejected claims 8-9.

A detailed rejection of claims 8-9 follows below.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 8-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Kirsten (US Patent: 5,724,475).

Kirsten discloses a method of storing audio/video data (Kirsten: figures 12A-12B) comprises: capturing a plurality of audio/video data (Kirsten: column 10, lines 50-55); storing said audio/video data at a first spatial and/or temporal resolution for a first time period (Kirsten: column 10, lines 10-20); and storing said audio/video data at a second, lower, spatial and/or temporal resolution for at least a second, later, time period (Kirsten: column 15, lines 15-30); which includes removing first selected audio/video data from said audio/video data stored at said first spatial resolution and/or temporal resolution to achieve said second spatial and/or temporal resolution (Kirsten: column 30, lines 45-55), in which said selected audio video data frames of audio/video frames of a second specified type of frame (Kirsten: column 34, lines 64-65), as in claim 8.

Kirsten discloses a method of storing audio/video data (Kirsten: figures 12A-12B) comprises: capturing a plurality of audio/video data (Kirsten: column 10, lines 50-55); storing said audio/video data at a first spatial and/or temporal resolution for a first time period (Kirsten: column 10, lines 10-20); and storing said audio/video data at a second, lower, spatial and/or temporal resolution for at least a second, later, time period (Kirsten: column 15, lines 15-30); which includes removing first selected audio/video data from said audio/video data stored at said first spatial resolution and/or temporal resolution to achieve said second spatial and/or temporal resolution (Kirsten: column 30, lines 45-55), in which third of subsequent selected audio/video data is removed from said audio/video data of said second of subsequent spatial and/or temporal resolution (Kirsten: column 34, lines 60-63), as in claim 9.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andy S. Rao whose telephone number is (571)-272-7337. The examiner can normally be reached on Monday-Friday 8 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on (571)-272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Andy S. Rao
Primary Examiner
Art Unit 2621

asr
/Andy S. Rao/
Primary Examiner, Art Unit 2621
September 25, 2008